II. SPECIFICATION AMENDMENTS

Please amend paragraph [0006] as follows:

[0006] A performance monitoring tool, commonly referred to as a profiling tool, collects performance data to determine compliance with the SLA. The profiling tool tracks and measures performance characteristics of the system including CPU utilization, processing time, and the memory or storage available to a customer. Often, these tools are designed to operate in a particular environment. Performance Monitoring Infrastructure Request Metrics is an example of a profiling tool designed to operate after deployment in a web-based environment. ~~See, generally, http://publib.boulder.ibm.com/infocenter/ws51help/index.jsp?topic=/com.ibm.websphere.exp.doc/info/exp/ae/tprf_requestmetrics.html.~~ Additionally, system administrators use the information obtained from these performance measurements ("metrics") to tune the performance of the system and take corrective action if needed. When the profiling tool indicates that system resources are not available, or are not performing according to the SLA, the SLA is breached. The provider pays a penalty to compensate the customer for the SLA breach according to the terms of the SLA.

Attorney Docket No. RSW920040131US1
Serial No. 10/711,981
Response to Office Action mailed 1/12/07
Please amend paragraph [0008] as follows:

[0008]   In addition to using profiling tools, there are several methods available to IT service providers in the utility computing environment to measure compliance with an SLA. Some of these methods also calculate appropriate rebates to customers in the event of an SLA breach, and proactively disburse a rebate to a customer.   These processes are disclosed in U.S. Patent No. 6,195,697 (issued February 27, 2001), U.S. Patent No. 6,556,659 (issued April 29, 2003), and U.S. Patent Application No. ~~(Attorney Docket No. AUS920030302US1)~~ 10/166,796. These processes do not address optimizing network resources and managing conflicting needs among the customers of the shared network collectively, nor do these processes address reallocating resources among the customers to minimize the total rebate awarded in the event of an SLA breach.

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Attorney Docket No. RSW920040131US1
Serial No. 10/711,981
Response to Office Action mailed 1/12/07

Please amend paragraph [0009] as follows:

[0009] Patent App. No. 0062205 (published April 1, 2004) assigns a financial value to identified performance flows based on SLA requirements and penalties for breach of the requirements. This financial value alerts operators of the possible financial impacts of reconfiguring hardware or software associated with those identified flows. This process, however, merely calculates and displays the financial loss associated with a breach or potential breach of one individual customer's SLA. U.S. Patent Application No. ————— (Attorney Docket No. RSW920030148US1) 10/675,726 does provide a method for estimating an SLA breach value, based on data acquired from an individual customer and on data acquired from an aggregated group of customers. But again, this method does not disclose a means for minimizing the total rebate a service provider must offer when an SLA is breached.

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Please amend paragraph the heading before paragraphs [0013] through [0018] as follows:

BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWINGS

[0013]   The novel features believed characteristic of the invention are set forth in the appended claims. The invention itself, however, as well as a preferred mode of use, further objectives and advantages thereof, will be understood best by reference to the following detailed description of an illustrative embodiment when read in conjunction with the accompanying drawings, wherein:

[0014]   FIG. 1 illustrates an exemplary shared resource configuration;

[0015]   FIG. 2 depicts an exemplary customer scenario in a utility computing environment;

[0016]   FIG. 3 represents an exemplary prior art network of computers and other hardware devices, in which the Rebate Minimization Algorithm may be implemented;

[0017]   FIG. 4 is a schematic diagram of the host server memory used to implement the Rebate Minimization Algorithm; and

[0018]   FIG. 5 depicts the inventive process for minimizing rebates disbursed to customers sharing IT resources.

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Please amend paragraph [0026] as follows:

[0026] Host server computer 120 hosts programs, applications, and tools that control consumption of computing resources in utility computing environment 135. Therefore, in this embodiment, the consumer accesses the utility computing environment 135 via consumer computer workstations 105-115 networked to host server computer 120 by network connection 140. The amount of IT resources available to the customer, as allocated by applications installed on host server computer 120, determine the actual number of consumers that may access the customer's website, and thus determine the number of consumers that a customer may service. Network connection 140 comprises all hardware, software, and communications media necessary to enable communication between network nodes 100-130105-130. Consumer workstation computers 105-115 use publicly available protocols or messaging services to communicate with the host server computer 120 through network connection 140. Host server computer 120 interacts with database server 125 to store and retrieve SLA information 145, system performance data 150, and customer information 155 to and from database 130. SLA information includes the level of service on which the customers and providers have agreed, and the penalty the provider pays when the provider breaches the SLA. Performance data, obtained in a web application environment, may include the retrieval rate from the web application server to the database, the time to request and return a displayed web-page, and the number of pooling requests, i.e., the number of users, an application can manage. Customer data may include information regarding inventory, shipping, prices, and consumer records. The nodes in the utility computing environment 135 also use publicly available network protocols; however, a firewall may control access to the utility computing environment 135.

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